

.

From: Pribeck, Kristen (DPH)
Sent: Thursday, February 28, 2008 1:23 PM
To: Stevenson, Allan (DPH)
Cc: Nassif, Julianne (DPH)
Subject: Boston Globe Article - Missing Drugs

Hi Cam,

Chuck dropped this article off for Julie today - note the last paragraph: "**John Salsberg, cochairman of the board of directors for Suffolk Lawyers for Justice, said the audit should serve as a wake-up call for defense lawyers, who rarely analyze drug evidence confiscated by police when their client is pleading guilty.** "I think it means that in every case it's incumbent upon the lawyer to physically examine the drugs and not just accept what's in a police report or a drug certification," Salsberg said."

http://www.boston.com/news/local/articles/2008/02/28/spotty_records_thwart_probe/

Spotty records thwart probe

Only 17 cases ID'd as tied to missing drugs

By Maria Cramer, Globe Staff | February 28, 2008

Law enforcement agencies investigating the widespread theft of drugs from a Boston police depository in Hyde Park have been hampered by a lack of accurate record-keeping in their probe of which criminal cases may have been compromised because of the missing evidence, officials said yesterday.

Prosecutors acknowledged the problem as defense lawyers prepared to send a letter to police and Suffolk District Attorney Daniel F. Conley requesting a list of the cases in which drugs cited as evidence went missing. The defense lawyers said they are concerned that some criminal convictions could be overturned if the drugs went missing or were tampered with around the time defendants were convicted.

Boston police officials released an audit in January that found that hundreds of bags of cocaine, heroin, marijuana, and pills were missing from the depository. But the report does not cite which cases may have been affected, giving defense lawyers little information about whether their clients could have been wrongfully convicted, said Anne C. Goldbach, director of forensic services at the Committee for Public Counsel Services, which employs about 200 public defenders.

"We will make that request for the list of cases, because it seems to be the only way we can determine if any of the convictions are vulnerable or whether any injustice was done," Goldbach said. "People could have been convicted in situations where there were no drugs anymore."

Police said there are nearly 1,000 cases in which drugs cited as evidence went missing or were tampered with. But prosecutors have been able to identify only 17, said Conley's spokeswoman, Erika Gully-Santiago. Defense lawyers have contacted Conley's office about another case, which is under review.

The bulk of the cases that police identified lacked court docket numbers and defendants' birth dates, which prosecutors needed to track down the cases, she said.

"One of the root issues here was poor record-keeping in the drug depository, so the original list we received lacked crucial identifying information," Gully-Santiago said, adding that prosecutors expect police to turn over those details "within days."

"Once we have that information, District Attorney Conley intends to make this information available to any individuals affected to ensure that their cases are handled as justice and the law dictate," Gully-Santiago said. Police are aware of the lack of information, said Elaine Driscoll, spokeswoman for the Boston Police Department. "We're working really, really hard to get them what they need."

In January, Commissioner Edward F. Davis said that he would work with Conley to inform defense lawyers about the audit's results, which showed that many of the stolen drugs were replaced with other substances. Defense lawyers said that the tampering might have increased the weight of the substances that were introduced into court as evidence and might have led to a longer prison term for a defendant.

Yesterday, police estimated that it would be another six months until they can release details of the investigation into how the drugs went missing.

"Obviously, the police commissioner has a desire to get to the bottom of this case as quickly as possible," Driscoll said. "This is a very big case, and there is a significant amount of evidence to process."

Police, who have acknowledged they do not know when the drugs were removed, have said that none of the drug cases in which evidence was missing are open and that none of the defendants who were imprisoned remain incarcerated.

They say the drugs cited as evidence disappeared over a period of 16 years, ending in 2006.

Randy Chapman, president of the Massachusetts Association of Criminal Defense Lawyers, said the loss of evidence is disturbing, because it compromises the whole criminal case.

"It has perverted the entire process," he said. In a criminal case, he said, "part of what has to happen is the government has a responsibility to show that these were the drugs that were taken and accounted for every step of the way. If somewhere along the line, the chain of custody was compromised, it affects the quality of the cases."

If someone were convicted in a drug case that was later overturned because of evidence that was missing, Chapman said, it could help clear the person's record and make getting a job or a student loan much easier.

John Salsberg, cochairman of the board of directors for Suffolk Lawyers for Justice, said the audit should serve as a wake-up call for defense lawyers, who rarely analyze drug evidence confiscated by police when their client is pleading guilty. "I think it means that in every case it's incumbent upon the lawyer to physically examine the drugs and not just accept what's in a police report or a drug certification," Salsberg said.

"It really is up to the lawyer to be inquisitive. Defendants . . . rarely know what to do. They take the advice of their attorney."

Maria Cramer can be reached at mcramer@globe.com.